<u>REMARKS</u>

In paragraph 2 of the office action, the examiner rejects claims 9 & 19 under 35 U.S.C. 112, second paragraph. Specifically, the examiner finds "the dummy resources are replaced in the service request by respective allocated resources for forwarding to the service provider" to be unclear.

The applicant has amended claims 9 and 19 to more clearly state the element of replacing dummy resources with allocated resources in the service request and "forwarding the service request comprising the respective allocated resources to the service provider." The applicant respectfully submits that claims 9 and 19 as amended are in condition for allowance, which allowance is requested.

In paragraph 5, the examiner rejects claims 1, 11, 21, and 24 under 35 U.S.C. 103(a) as unpatentable over US 6,151,688 (Wipfel) in view of US 5,764,626 (VanDervort). According to the examiner, Wipfel discloses "allocating resources of a service provider to a plurality of users of the service provider in a data processing system wherein the resources are maintained in a resource pool (Abstract; Fig 2&7; Col. 3, lines 41-62; and Col. 8, lines 7-67), when not allocated to a user and comprises a plurality of first and second resources, each second resource being associated with a first resource for use together with the associated first resource, and wherein, to invoke performance of a service by the service provider, a user issues a first resource request, requesting a first resource, one or more second resource requests, requesting one or more second resources, and, following receipt of the requested resources, issues a service request including the received first resource and at least one received second resource, requesting performance of the service (Col. 8, lines 7-67; Col. 14, lines 61-65; Cols. 15&16), the method comprising steps of:" The applicant disagrees. The present

application is directed to pooled resources that are resources
provided by a program service. Wipfel on the other hand is
directed to allocating pooled resources in a cluster computer
system which Wipfel resources are hardware entities such as
memory buffers, bandwidth credits, priority etc. (Wipfel Col. 8,
lines 16-23). Furthermore, allocation in Wipfel is done during a
context switch of the operating system (Col. 15, lines 21-35).
The present invention provides for pooling program services
available to an application program. Wipfel does not express or
imply:

"a service provider";

"resources of a service provider";

"second resource associated with a first resource"

"invoking performance of a service";

"a user issuing a first resource request requesting a first
resource, one or more second resource requests requesting one or
more second resources"; or

"following receipt of the requested resources, issues a
service request including the received first resource and at
least one received second resource, requesting performance of the
service". Wipfel does not contemplate a service request including
a first resource request and a related second resource request
wherein "to invoke performance of a service by the service
provider, a user issues a first resource request, requesting a
first resource, one or more second resource requests, requesting
one or more second resources" as shown in the claim. The
applicant respectfully submits therefore that claims 1, 11, 21,
and 24 are allowable, which allowance is respectfully requested.

In paragraph 6, the examiner notes "that it would have been
obvious to use connection and object handles for identification
within a resource management/allocation system such as Wipfel. As
said first and second resource requests represent connection and
object handles, the issuing of first and second resource requests

would have been obvious (perhaps even inherent), in view of the
teachings of Wipfel." The applicant disagrees. Connection and
object handles are application program interface methods. The
Wipfel patent relies on context switching to invoke hardware
resource changes which teaches away from any sort of programmable
means involving object handles. Furthermore, according to *In re
Zurko, 258 F.3d 1379, 59 U.S.P.Q.2d 1693 (Fed. Cir 2001)* "the
Board cannot simply reach conclusions based on its own
understanding or experience -- or on its assessment of what would
be basic knowledge or common sense. Rather, the Board must point
to some concrete evidence in the record in support of these
findings". Therefore, the applicant respectfully requests the
examiner provide evidence to his assertion of paragraph 6 (Also
MPEP 2144.03C). The applicant respectfully submits therefore that
claims 1, 11, 21, and 24 are allowable, which allowance is
respectfully requested.

In paragraph 7, the examiner states "Wipfel does not
specifically teach the dispensing of dummy resource buffers that
are later replaced by corresponding actual resources in response
to service requests for same. VanDervort discloses a resource
management dummy test cell capable of being identified, modified,
discarded or replaced (Col 18, lines 1-35)." The examiner alleges
"It would have been obvious to one of ordinary skill in the art
at the time of the invention by Applicant to apply the dummy node
forwarding technique of VanDervort to Wipfel resource management
system. The applicant disagrees. VanDervort does not contemplate
a dummy node forwarding technique, rather a packet cell
forwarding technique that forwards test dummy cells instead of
the intended cell. The VanDervort reference is directed to a test
apparatus that intercepts ATM communication packets (Cells) at a
node and can elect to modify a cell or replace it with a dummy
cell before re-transmitting it to another node. Vandervort is not
managing resources of any sort and furthermore, there would be no

motivation to combine the test packet method of Vandervort with
the cluster resource management of Wipfel. Vandervort in
combination with Wipfel would not result in the present
invention. In fact the combination is difficult to contemplate
since Wipfel is silent on any sort of protocol in providing
resources and Vandervort is silent on resource management.
Certainly no combination would result in place holder "dummy"
resources that obtain resource allocation when service is
requested as shown in the claim.

The examiner asserts "The motivation to combine is found in
the common resource management capabilities taught by both Wipfel
and VanDervort. Moreover, the addition of dummy node forwarding,
(which has been well-known in the art for various purposes),
would clearly provide for memory pre-allocation, which is an
obvious performance advantage within a system, (like Wipfel which
already provides for the pre-allocation of resources, including
memory buffers (Col. 8, lines 7-67)." The applicant disagrees.
The claim does not include a resource pre-allocation limitation.
Furthermore, there is no dummy node forwarding in VanDervort as
previously explained. The applicant respectfully submits
therefore that claims 1, 11, 21, and 24 are allowable, which
allowance is respectfully requested.

The examiner has not shown the elements of "dispensing dummy
resources to a user in response to the first and second resource
requests, each dummy resource representing a resource requested
by the user; and in response to the service request from the
user, allocating corresponding resources from the resource pool
to dummy resources dispensed to the user." Of the present claim.
There is no combination of the references that would teach how to
dispense dummy resources and later allocate them.

The cited art of VanDervort is non analogous art as it is from
a different field than the invention and is not pertinent to the
problem solved by the invention. VanDervort deals with a network

packet protocol and means for injecting test packets which is not analogous to dummy resource allocation of the present invention. *In re Clay, 966 F.2d 656, 658-59, 23 U.S.P.Q.2d 1058, 1060-61 (Fed. Cir. 1992)* which requires "either 1. The art is from the same field as the invention or 2. The reference is reasonably pertinent to the problem solved by the invention".

Furthermore, there is no motivation to combine the VanDervort and Wipfel references *in re C.R. Bard, Inc. V. M3 Sys., Inc., 157 F.3d 1340, 1352, 48 U.S.P.Q.2d 1225, 1232 (Fed. Cir. 1998).* The applicant does not find either "common resource management capabilities" in Wipfel and VanDervort nor does the applicant see dummy node forwarding (VanDervort) or memory pre-allocation or how the combination, if it existed would motivate one to combine the references. The applicant respectfully requests the examiner clarify the motivation to combine. The applicant respectfully submits therefore that claims 1, 11, 21, and 24 are allowable, which allowance is respectfully requested.

It is respectfully submitted that the application is now in condition for allowance, which allowance is respectfully requested.

RESPECTFULLY SUBMITTED

BY: _____
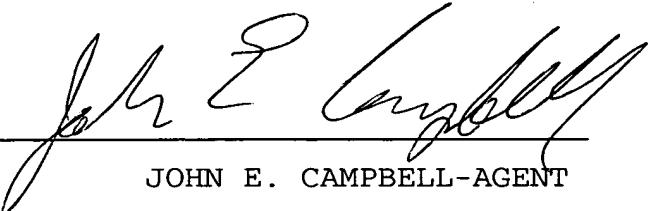
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